

**REMARKS/ARGUMENTS**

Claims 1-55 are pending. Claims 1, 20 and 37 have been amended and new claims 56-57 have been added. Therefore, upon entry of this amendment, which is respectfully requested, claims 1-57 will be pending.

This amendment is submitted as an RCE Submission under 37 CFR 1.114. A Notice of Appeal was filed on December 28, 2003 and received in the Patent Office on January 2, 2004. The Office date of receipt of the Notice of Appeal is the date from which the 2-month period for reply is measured (see, *e.g.*, MPEP §1206). Accordingly, a 4-month extension of time is submitted herewith to extend to time for reply from March 2, 2004 until July 2, 2004 to keep the application pending.

It was stated in the Advisory Action mailed December 2003, that in Walker '477 (the Walker reference), money is merely a token. That is, the Examiner is equating money as a token that is used as a medium of exchange. It is respectfully asserted that the Examiner is confusing the term "money" with "token" as the term is used in the present invention, and that the Walker reference does not teach or suggest converting "tokens" as is recited in the claims. In essence, the Examiner is ignoring limitations in the claims that define "token value". As recited in the claims, for example, a token value is determined based on a total number of tokens in a set of tokens. Also, the total number of tokens varies. Further, the total value of all tokens in the set of tokens remains constant. From these limitations it is clear that if a cash (*i.e.*, monetary) value is associated with the tokens, the cash value varies as a function of the number of tokens in the set of tokens since the total value of all tokens in the set is constant. Thus, a "token" as claimed is clearly not the same as "money" as the value of money does not vary; a dollar is a dollar (or in the case of actual physical money, a dollar bill is a dollar bill and has the value of a dollar). If more dollars are added to an account, the value of the dollar is still worth a dollar. As claimed, a "token", to the contrary, has a value that will vary since the total value of all tokens is constant, yet the total number of tokens varies. A numerical example of token value decreasing due to an

increase in the total number of tokens (e.g., increase of tokens due to a statistically positive token return) can be found at page 4, lines 9 to 20. Thus, a guaranteed payout (of "money") as disclosed in the Walker reference does not teach or suggest "tokens" or a statistically positive return of "tokens" of the present invention.

Support for the amendments to claims 1, 20 and 37, specifically, inclusion of "wherein the total number of tokens varies" can be found, for example, at page 3, line 12 to page 4, line 3, at page 4, lines 9-20 and at page 8, line 7 to page 9, line 6.

New claims 56 and 57 recite a system for positive return gambling, including the limitation "wherein the total number of tokens varies" as discussed above. Additionally, these claims recite that "the total value of all tokens is derived from a source other than a provider of the game apparatus." (emphasis added) Support for this limitation can be found, for example, at page 8, lines 3 to 6. It is respectfully submitted that neither Weingardt nor Walker '477, nor the other cited references, teach or suggest this limitation.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

Appl. No. 09/715,385

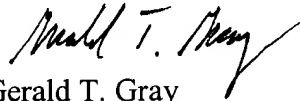
PATENT

Amdt. dated July 2, 2004

AMENDMENT/RCE SUBMISSION UNDER 37 CFR 1.114

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



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